REMARKS

1. Applicant thanks the Examiner for the Examiner's comments, which have greatly assisted Applicant in responding.

2. **35 U.S.C. §103.**

Claims 1-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Pollitt, US # 2003/0069803 A1 (hereinafter Pollitt), in view of Brandenberg et al, US # 2005/0043060 A1 (hereinafter Brandenberg).

Applicant respectfully traverses.

Comments from previous responses, which include comments about the cited references are incorporated herein.

Applicant has amended the independent Claims to incorporate an embodiment of the algorithm as depicted in the Specification on page 5, lines 1-9.

During the interview on November 9, 2005, the Examiner commented that the Examiner did not see such algorithm in the Pollitt reference.

The Brandenberg reference does not teach, disclose, or suggest such algorithm either.

None of the prior art of reference, alone or in combination, teach or suggest such algorithm.

According to section 2143 of the MPEP, *i.e.* Basic Requirements of a Prima Facie Case of Obviousness, "To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or

references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

In view of the amendment to the independent Claims, namely, incorporating the algorithm limitation, It is evident that the third prong test fails, because none of the cited prior art references, alone or combined, teach or suggest all the claim limitations.

Because neither of the prior art references themselves nor in the knowledge generally available to one of ordinary skill in the art teach or suggest the claimed algorithm, there cannot be some suggestion or motivation to modify the reference or to combine reference teachings.

Because neither of the prior art references themselves nor in the knowledge generally available to one of ordinary skill in the art teach or suggest the claimed algorithm, there cannot be a reasonable expectation of success.

Accordingly, a prima facie case of obviousness is not established as the three basic criteria are not met. The independent and hence the dependent claims are deemed to be in condition for allowance because they meet the conditions for allowance set forth by the applicable Patent Laws, Patent Office Rules, and controlling Case Law. As such, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

CONCLUSION

Based on the foregoing, Applicant considers the present invention to be distinguished from the art of record. Accordingly, Applicant earnestly solicits the Examiner's withdrawal of the rejections raised in the above referenced Office Action, such that a Notice of Allowance is forwarded to Applicant, and the present

application is therefore allowed to issue as a United States patent. The Examiner is invited to call (650) 474-8400 to discuss the response.

Respectfully Submitted,

Julia A. Thomas

Julia A. Thomas
Reg. No. 52,283

Customer No. 22862